



N.J. Department of Law and Public Safety
Division of Consumer Affairs
State Board of Mortuary Science
of New Jersey
124 Halsey Street
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State Board of
**MORTUARY
SCIENCE**
of New Jersey

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Newsletter

Summer 2003

President's Message

It is both a privilege and an honor to serve as a member of the State Board of Mortuary Science of New Jersey. My tenure as president of the Board has been made much easier because of the dedication and diligence of Paul Brush, our former executive director, as well as his staff. All of our Board members are always well prepared with meeting materials, due to the commitment of the Board's staff, and as a result our meetings are extremely productive.

The Board handled 77 consumer complaints and disciplinary matters in 2001, down slightly from 88 in 2000. In addition, the Board reviews all inspection reports in which violations are reported as well as all matters which are brought to the Board's attention from any source.

Having said all of this, you may still question why the Board cannot seem to resolve your specific problem which seems to have been going on for an eternity. The reality is that most complaints are resolved upon their initial review by the Board. This can be accomplished either by a dismissal or through the issuance of a uniform penalty letter (U.P.L.). A dismissal usually ends the matter, but it can generate further correspondence from the consumer to his or her elected representatives, the attorney general, the media or the Board. What this means to the Board is that the matter may be returned for future consideration. Licensees who receive a U.P.L. may admit the violation and pay the penalty; they may request a hearing; or they may waive a hearing but submit a written statement for consideration by the Board. Any disposition other than a payment of the penalty causes the matter to be revisited by the Board.

Some matters require that the Board obtain more information from the consumer or the licensee. When this occurs, the matter is held over until the information is received and the matter is returned to the agenda when time permits. Many of these requests for additional information are made by letter from Executive Director William Mandeville to the appropriate party.

However, some matters cannot be resolved by sending a letter requesting additional information. They require documents and records to be subpoenaed, witnesses to be interviewed, and investigative inquiries and/or hearings to be conducted by the Board. In some cases, we must do all of the above. The State Board of Mortuary Science of New Jersey, like all boards in the Division of Consumer Affairs, relies upon the Enforcement Bureau (Bureau) for interviews and investigations. All matters that are referred to the Bureau are important, but because of the Bureau's finite resources, its workload must be prioritized. We, like all other boards, must wait until the Bureau furnishes us with its report.

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Did you know?

State Board of

MORTUARY SCIENCE of New Jersey NEWSLETTER

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This newsletter is a publication of the State Board of Mortuary Science of New Jersey, Division of Consumer Affairs, 124 Halsey Street, P.O. Box 45009, Newark, N.J. 07101, (973) 504-6425. This newsletter is published for its licensees. Board office hours are 9:00 a.m. to 5:00 p.m., Monday through Friday. Board meetings are the 1st Tuesday of each month.

- The name of the licensed manager must appear with the title “manager,” “senior director” or “executive director” on all stationery, billheads, general price lists, advertising, and in all other instances where the firm’s name is used.
- Mortuary Board minutes, along with state regulations and statutes, are posted on our Web site at www.state.nj.us/lps/ca/nonmed.htm#mort7.
- A true and accurate copy of the general price list, casket price list and the outer burial container price list must be retained for a minimum of one year after the date of their last distribution to customers (N.J.A.C. 13:36-9.5, 9.6 and 9.7). A copy of each Statement of Funeral Goods and Services Selected must also be held for at least six years from the date on which the statement was signed (N.J.A.C. 13:36-1.9).
- As of March 18, 2003, all advertisements and business cards have been required to include the license number of the practitioner as follows: “N.J. Lic. No. _____.” The license number is optional for the various price lists and statements. Make sure you are familiar with the regulation (N.J.A.C. 13:36-5.12(a)) so that you understand the definition of an advertisement. It is quite inclusive.
- You are required to notify the Board office within 10 days after you have changed your residence address. This will insure that you receive official notifications from the Board, especially your biennial license renewal application.
- State law permits the Director of the Division of Consumer Affairs, or the Board which licenses you, to suspend your license if you default on a state or federal educational loan. Your license will not be reinstated until you provide either the Director or the Board with a written release, issued by the lender or guarantor, which says that you have paid your loan or are making payments in accordance with a repayment agreement approved by the lender or guarantor.

Registering Your Funeral Home Establishment

The Board requires a letter from the owner(s) providing the details of the registration. You must send to the Board a copy of the certificate of incorporation, or the agreement of formation of a limited liability corporation (L.L.C.). This must be filed with Secretary of State Regina L. Thomas and indicate the name, address, and telephone number of the corporation officers (or L.L.C. operating members). In the case of corporate ownership, the Board also requires a copy of the corporate resolution

appointing the manager and a letter from the manager accepting the position. When there is a change of ownership of the funeral establishment, even from proprietorship to incorporation of an L.L.C., a new registration is required. This entails an application for registration, and the appropriate fees for registration and the required inspection of the facility. Please give the Board as much advance notice as possible. Once you pass the inspection, you may begin taking calls. You will receive your new registration in about six weeks.

Executive Director's Message

by former Executive Director Paul Brush

The Board is pleased to publish its very first newsletter. We hope you find it interesting as well as informative. The aim of the newsletter is to keep you, the licensed funeral director, advised of the Board's activities. We have mailed the newsletter to all licensees of the Board and we encourage your comments and suggestions for future issues. I would like to thank the members of the Board for their support and assistance in this inaugural issue.

A primary purpose of this newsletter is to provide information about common concerns and frequently asked questions. For example, one such question would be "What do I have to do to register my funeral home now that I have incorporated?" We try to answer this question very simply in the article on page 2.

Have you ever received a letter from the Board informing you that a complaint has been filed against you? I am sure you hope it will never happen, but if it does, the article on page 5 called "The Complaint Process" explains how the Board reviews the complaints it receives. Another area that seems to cause confusion is the rental of another funeral home. You will want to read the article on the right side of this page to make sure that you understand the rule covering rentals.

One of the Board's most important functions is the regulation of the profession. We have included an article on regulatory initiatives such as continuing education, inactive licensee status, and several amendments to our current rules that become effective upon publication unless otherwise stated.

Lastly, please note the recent disciplinary actions taken by the Board. Although this is one of the more unpleasant duties of Board members, it is necessary to protect the public from incompetent and dishonest licensees.

In the next newsletter, we will introduce you to the Board's staff members and inform you about how to contact us for assistance. We hope you enjoy the newsletter and we welcome your suggestions.

Intern Reports to Be Filed on Time

A reminder to preceptors: You and your intern must submit the monthly reports of embalmments and funerals to the Board's office by the 15th of the following month, even if the intern has completed the required 75 embalmments and funerals. The preceptor and the intern should continue to report the details of each funeral. No credit will be given to the intern if the report is not filed on time. Refer to the Board's regulation, N.J.A.C. 13:36-2.5, for details.

Transfer of Funeral Establishment to New Location

A certificate of registration is not transferable. Therefore, whenever a funeral establishment moves to a new location, a new application for a certificate of registration must be submitted to the Board. This must be done in writing at least several weeks before opening the new establishment to allow for an inspection and registration.

Rental of Another Funeral Home

The rental use of another registered mortuary is a custom that began many years ago to allow a funeral director the professional courtesy of conducting a funeral at a location other than his or her own. However, the Board's regulation which permits this practice, N.J.A.C. 13:36-4.13, has been abused in several instances. It has been abused most notably by renting to out-of-state funeral directors, by renting to a funeral director licensed in New Jersey who does not own a registered mortuary, and by renting the same facility more than three times per year without obtaining special permission from the Board. The Board may waive the limit of three rentals in a given year upon receipt of a special application showing good cause for the waiver.

Licensure by Credentials

In an effort to ease the process of licensing qualified out-of-state licensed funeral directors, the Board instituted the licensure by credentials procedure which provides for licensure of any individual whose credentials are substantially equivalent to our own without having to do another two-year internship. In order to obtain licensure by credentials, an applicant must have education credentials that are substantially equivalent to the Board's educational requirements. There is no provision for waiving this requirement. The applicant may then submit an application for licensure along with the appropriate fee. It is also necessary to receive verification from the licensing authority in the jurisdiction in which the applicant is currently licensed. The licensing authority in the other jurisdiction must also verify that the applicant practiced for at least two years and it must report his or her disciplinary history. If the applicant only did a one-year internship, the Board may waive this requirement if he or she has been licensed for at least five years. So far, the Board has licensed about 25 practitioners under this program.

The following disciplinary actions were taken by the Board during the years 2001 and 2002. Copies of the orders may be obtained by calling the Board office.

DISCIPLINARY ACTIONS

August 2001

Drew Funeral Home, Newark, Montclair and Union. Calvin N. Drew, Sr., License No. JP2647. Consent Order: Violations in the preparation room and equipment requirements. Use of a Statement of Funeral Goods and Services Selected not in compliance with the Board's regulations. Penalties: Imposed on both the funeral home registrations and Mr. Drew in the amount of \$6,000, plus administrative costs in the amount of \$1,339.65.

December 2001

Eckman Funeral Home, Spotswood. Karen Brady-Eckman (unlicensed). Consent Order: Unlicensed practice of mortuary science and operating a mortuary without a valid registration. Preparation room violations and use of a Statement of Funeral Goods and Services Selected not in compliance with the Board's regulations. Failure to have the Statement of Funeral Goods and Services Selected signed by a licensed funeral director and the consumer. Penalties: Suspension of the funeral home registration for six years, of which 60 days are active with the remainder served as probation; monetary fine of \$60,000 plus administrative costs in the amount of \$6,873.86.

January 2002

George J. Govich, License No. JP3536. Consent Order: Allowing an unlicensed person to make pre-need and at-need funeral arrangements and to sign his name on the Statement of Funeral Goods and Services Selected, the death certificates and other funeral home documents. Failure to have the Statement of Funeral Goods and Services Selected signed by a licensed funeral director and the consumer. Use of a Statement of Funeral Goods and Services Selected not in compliance with the Board's regulations. Allowing both his license and the registration of the Eckman Funeral Home, of which he was the manager, to

lapse. Preparation room violations. Penalties: Suspension of his license to practice mortuary science for six years, of which two years are active with the remainder served as probation; monetary fine of \$5,000 plus administrative costs in the amount of \$447.39.

January 2002

Bell-Hennessy Funeral Home, Williamstown. Robert A. Hennessy, License No. JP3142. Consent Order: Allowing an unlicensed person to make pre-need and at-need funeral arrangements, and to sign his name to various documents. Use of a Statement of Funeral Goods and Services Selected not in compliance with the Board's regulations; and failure to have the Statement of Funeral Goods and Services Selected signed by a licensed funeral director and the consumer. Penalties: Suspension of Robert Hennessy's license to practice mortuary science for six years of which two years are active with the remainder served as probation. Suspension of the registration of the funeral home for four years, all of which shall be served as probation; monetary fine to Robert Hennessy and the funeral home, jointly and severally, in the amount of \$50,000 and administrative costs in the amount of \$6,174.32.

Uniform penalty letters are issued by the Board for minor infractions of the statutes and regulations. They are settled by the respondent in one of three ways:

- 1) The payment of the fine, if a fine is imposed;
- 2) The request for a public hearing before the Board to discuss the issue; or
- 3) The submission of a written statement to the Board to discuss the issue. This is in lieu of a public hearing and waives the respondent's right to a subsequent public hearing.

If option number 2 or 3 is selected, the Board, at the conclusion of the hearing or a review of the respondent's statement, may sustain or modify the original penalty in whole or in part, or the entire matter may be dismissed.

The following uniform penalty letters were issued by the Board during the years 2001 and 2002:

Paul W. Budd Funeral Home, Woodbury: Used the name of an unregistered mortuary to conduct funerals. Penalty of \$6,000.

Eternity Funeral Service, L.L.C., Garfield: Statement of Funeral Goods and Services Selected (S.F.G.S.S.) not in compliance with regulations. Penalty of \$750.

Krowicki McCracken Funeral Home, Linden: Statement of Funeral Goods and Services Selected (S.F.G.S.S.) and stationery not in compliance with regulations. Penalty of \$2,000.

Childs Funeral Home, Red Bank: Statement of Funeral Goods and Services Selected (S.F.G.S.S.) not in compliance with regulations. Penalty of \$1,000.

Stephen J. Priola Parsippany Funeral Service, Lake Hiawatha: Advertising violation. Penalty of \$250.

Campbell Funeral Chapel, Inc., Trenton: Statement of Funeral Goods and Services Selected (S.F.G.S.S.) not in compliance with regulations. Penalty of \$1,000.

Woody Home For Services, Orange: Statement of Funeral Goods and Services Selected (S.F.G.S.S.) not in compliance with regulations. Penalty of \$1,000.

The Godfrey Funeral Home, Ocean City: Failure to terminate an intern. Penalty of \$2,500.

Frank Halpin's Brookdale Funeral Home, Bloomfield: Statement of Funeral Goods and Services Selected (S.F.G.S.S.) not in compliance with regulations. Penalty of \$1,500.

Haeberle-Barth Colonial Home, Union: Failure to use the name of the funeral home as registered with the Board on price lists. Penalty of \$1,000.

Rivero Funeral Home, Union City: Advertising violation. Penalty of \$500.

Gormley Funeral Home, Atlantic City: Statement of Funeral Goods and Services Selected (S.F.G.S.S.) not in compliance with regulations. Penalty of \$1,000.

President's Message

Continued from page 1

In some instances, the Bureau's report provides the Board with sufficient information to act and in others it provides the Board with data that cause us to make further inquiry. The Bureau, due to its heavy workload, needs four to 10 months to complete an inquiry and prepare a comprehensive report. The Board regularly meets once a month, so once a report is received, it will not be seen by the Board until the following month. If an investigative inquiry is required, it usually takes at least two months to schedule. In complicated matters, the Board may require a certain sequence in the investigation process and this, too, can cause delays.

As you can see, some matters, such as advertising violations and Statements

of Funeral Goods and Services that are not in compliance, can be handled expeditiously. Others, such as unlicensed practice and pre-need violations, can take more than a year.

The primary function of the Board is to protect the consumer. However, a goal of the Board is to provide a level playing field for all licensees. The Board is both thorough in its inquiries and fair in its deliberations so that consumers and licensees can be confident that every party receives full consideration and impartial treatment. Rest assured that the Board seeks to promptly resolve every matter brought to its attention, but it does not attain expediency at the expense of diligence.

Board President Gerald P. Scala

The Complaint Process by former Executive Director Paul Brush

One of the most disturbing situations faced by a licensee is receiving a letter from the State Board informing him or her that a consumer has filed a complaint. It is the mission of the Division of Consumer Affairs to protect the consumer and, therefore, the Board reviews every complaint that is received, no matter how trivial it may appear. A review of the complaint process follows.

All complaints are entered into a database and assigned a number for the purpose of recordkeeping. The Board office notifies the licensee with a copy of the complaint, and the licensee is requested to respond to the Board with a copy of the funeral file and comments on the allegations usually within 20 days. The response, with the complaint, is then forwarded to the Board for its review. Additional information from the consumer and/or the licensee may be requested. When dealing with more serious matters, the Board may schedule a formal investigative inquiry. A transcription of the proceedings is made and the

licensee is advised that legal counsel may be retained since anything said at the investigative inquiry may be used as evidence in further disciplinary proceedings in the matter.

The Board has several options for adjudicating a complaint. It may find that there is no cause or insufficient cause for disciplinary action and dismiss the complaint, at which time both the consumer and licensee are so notified. However, if the Board determines that there has been a violation of a statute or regulation, it may seek a civil penalty, restitution for the consumer, or it may reprimand the licensee by issuing a uniform penalty letter. The licensee may agree to the penalty, request a hearing to contest the allegations, or waive the right to a public hearing by submitting a written explanation for the Board's consideration, prior to a final decision.

In some cases, the Board may request that its deputy attorney general negotiate an agreement with appropriate penalties for the licensee (often through his or her

attorney). This agreement is finalized as an administrative consent order, which states the facts, the Board's findings of specific statutory violations and the agreed-upon sanctions, including terms and conditions. The consent order is signed by the licensee and the Board president. If a matter cannot be resolved on a consensual basis, the deputy attorney general files a formal administrative complaint, and the licensee will be entitled to all the rights of administrative due process. Uniform penalty letters and consent orders are a matter of public record and are maintained in the licensee's file as well as being noted on the Board's Web site.

The Board has determined over the years that the review of consumer complaints provides the highest level of assurance to the consumers of the State that their rights are protected and their concerns are heard. It also ensures that licensees maintain the highest degree of professionalism, which is obviously a credit to the profession and a benefit to the public.

Regulatory Rule Changes

The Board has adopted major substantive amendments to funeral service rules. After readoption, the Board established a Regulations Committee to continue working on additional amendments to various sections of the regulations. The following rule changes became effective immediately upon final publication in the New Jersey Register, unless otherwise stated.

13:36-1.8 Recordkeeping by practitioner of mortuary science

The registered establishment now becomes responsible for maintaining accurate records of all funerals in which it participates, shifting responsibility from the individual licensee to the registered establishment. In addition, as part of the funeral record, the name and license number of the practitioner or intern who performed the embalming and/or sanitary care services must appear.

13:36-3.7 Practical examination requirements

A candidate registered with the Board may be given a practical examination upon successful completion of the written examination and up to 90 days prior to the end of his or her internship.

13:36-5.6 Equipment requirements

In the preparation room, the grooved director is no longer required. The name of the aneurism needle has been changed to aneurism hook. However, both names are acceptable.

The requirement for a three-inch waste drain has been amended to require a minimum two-inch drain. However, compliance with local municipal codes must always be observed.

13:36-5.12 Advertising

A business card is now considered an advertisement when used as advertisement copy (e.g. church bulletins, fundraiser display ads). The Board's definition of an advertisement is quite comprehensive. Be sure to review this regulation! Public media shall now

include the Internet, along with newspapers, magazines, periodicals, professional journals, telephone directories, circulars, handbills, flyers, letters, billboards, aerial displays, signs, television and radio. Manager or establishment signs are not subject to the advertising disclosure requirements.

Effective March 18, 2003, all advertisements and business cards must display the license number of the practitioner preceded by "N.J. Lic. No. xxxx." The Board feels the inclusion of a practitioner's license number provides consumers with information by which they can verify the status of a licensee.

13:36-8.6 Business cards

Business cards may now be used for identification purposes for licensees and unlicensed employees associated with a funeral home. A licensee's business card must include at least the licensee's name, title or position, such as manager, senior director or executive director, and since March 18, 2003, the phrase "N.J. Lic. No. xxxx."

Unlicensed individuals associated with the funeral home are now permitted to use business cards for the purpose of identification, but only if the card contains the individual's name and title or position. Make sure that the business card used by an unlicensed person does not imply that he or she is a licensed practitioner. The phrase "unlicensed and not qualified to make funeral arrangements, embalm or conduct funerals," is no longer required to appear on the card unless the card is used as an advertisement (as previously discussed in N.J.A.C. 13:36-5.12).

13:36-8.10 Presence of licensee for disposition of dead human body

The current rule states that no interment, cremation or other disposition of a body, or any disinterment thereof, shall be made by any person in the State, unless a licensed practitioner of mortuary science is present at the time of disposition. The Board has amended this rule to provide an exception for the transfer of remains from a place of temporary storage to a place of final entombment or interment within a single cemetery as provided by the New Jersey Board of Cemetery rule N.J.A.C. 13:44J-7.4.

13:36-9.7 General price list

Along with the name, address and telephone number of the registered mortuary, the general price list must now include the manager's name as registered with the Board. The Board will allow typewritten or temporary stickers for the manager's name to enable the firm to exhaust its current supply of general price lists.

Remaining Board Meeting Dates for 2003

**July 1
August 5
September 2
October 7
October 28
December 2**

Free Money Saving Information: Avoid Expensive Oversights

A majority of New Jersey funeral homes pass inspection without a single violation. However, among funeral homes where violations are discovered, the most common violations are those related to the Statement of Funeral Goods and Services Selected (S.F.G.S.S.) and/or the condition of the preparation room.

Every S.F.G.S.S. must comply with Board regulation N.J.A.C. 13:36-1.9. Our regulations are similar to, but not identical to, the Federal Trade Commission (F.T.C.) regulations, so you should not rely on a supplier's representations that the S.F.G.S.S. complies with the F.T.C. Any S.F.G.S.S. that complies with New Jersey regulations is also in compliance with the F.T.C.'s regulations. However, not every S.F.G.S.S. that complies with the F.T.C.'s regulations is in compliance with New Jersey's regulations.

Our regulations set forth specific language that must be included, as well as categories of charges and a specific format for the S.F.G.S.S. For example, our regulations require that the S.F.G.S.S. be on a single sheet of paper and cannot contain a promissory note

or other nonrelated items. A S.F.G.S.S. may contain a contract only if it is separated from the form by a horizontal line across the entire face of the page and the heading CONTRACT appears immediately below the horizontal line. The regulations are specific and must be followed precisely. They have also been in effect long enough for every licensee to be aware of the existence of the regulations and the need to comply.

We urge every licensee to spend the 15 minutes it takes to compare his or her S.F.G.S.S. to the regulation. If the S.F.G.S.S. does not comply, purchase forms that do comply immediately. Do not do half a job. Be certain to check the entire S.F.G.S.S. to see that it complies with every part of the regulation. Do not be satisfied and stop checking your S.F.G.S.S. after you have found one or two violations because the Board has seen seven or eight separate violations on a single S.F.G.S.S.

Your self-inspection, even if you discover that you require new forms, will be less expensive for your funeral home than if the Board reviews your

S.F.G.S.S., imposes a penalty and orders you to cease and desist from using the forms that do not comply. Another observation: fill them out completely, and be certain that they are signed and that you have entered all of the appropriate dates.

Our observations with regard to preparation rooms are similar to those regarding the S.F.G.S.S. The Board's regulation, N.J.A.C. 13:36-5.5, sets forth the physical requirements for every preparation room and 13:36-5.6 itemizes every piece of equipment that is required to be in every preparation room. Also, 13:36-5.7 sets forth the requirements for protecting the potable water supply from contamination.

We urge all licensees to perform a self-inspection. If your preparation room is deficient, fix it. Do not wait for an inspection by the Board which may result in penalties and an order to take the necessary remedial action. Be a tough inspector; the money you save is yours.

Incidentally, every funeral home registered with the Board must have a fully equipped and supplied preparation room. Even if your specific practice involves off-premises embalming and preparation, you must have a fully equipped and supplied preparation room at your funeral home.

Licensees are charged with compliance with all statutes and regulations affecting the practice of mortuary science. This limited discussion of specific regulations is intended to call your attention to violations that occur with frequency and which you can easily and completely avoid.

Good luck with your inspection and we hope that you enjoy spending the money you have just saved yourself.

Disposal of Unclaimed Cremated Remains

Unclaimed cremated remains must remain with the funeral establishment for a minimum of one year from the date of cremation. They may then be disposed of in a dignified manner after a diligent effort has been made to identify, locate and notify a relative or friend of the decedent within that one-year period. A diligent effort shall include a certified letter, return receipt requested, mailed to the person who authorized the cremation. Keep in mind that when shipping cremated remains, the U.S. Postal Service is the only acceptable carrier. In the past, Federal Express and United Parcel Service have not accepted cremated remains for shipping.

Board President Gerald P. Scala

Electronic Death Registration

Have you registered with the State Department of Health and Senior Services to obtain your online password? Many hospitals and doctors are now online issuing electronic death certificates via the Internet. Training sessions have been provided periodically statewide to educate all participants involved in issuing paperless electronic death certificates. Upon completion of the training, a personalized password is issued to the licensee. This password provides access to the system, enabling you to execute the funeral director's portion of the certificate. It also provides your electronic signature for submission to the registrar to obtain a burial permit. This

streamlined process can be accessed from any computer with access to the Internet. The second and third phase of the electronic death registration (EDR) system will enable the user to execute corrections and eventually download certified copies.

A unique feature only offered in New Jersey now automatically verifies the decedent's Social Security number with the Social Security Administration (SSA). When the EDR record is saved the information is sent to the SSA and automatically verified.

Continuing Education Credits

By the end of each biennial licensing period, every active licensee must successfully complete 10 hours of continuing education courses or seminars accredited by the Board. The Board continues to randomly select licensees for proof of completion as outlined in N.J.A.C. 13:36-10.10. Licensees are not permitted to carry over credit hours from one biennial period to the next. Remember, you can only use three credits for merchandise programs towards the required 10 credits.

E-mail us at AskConsumerAffairs@lps.state.nj.us or
visit our Web site at www.nj.gov/lps/ca/nonmed.htm#mort7



New Jersey Department of Law & Public Safety



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